

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
EDMUND BRYAN,

Plaintiff,

-against-

No. 07 Civ. 7300 (SHS)

ECF Case

MEMORIAL SLOAN-KETTERING CANCER
CENTER,

Defendant.
-----x

April 24, 2008
10:20 A.M.

Deposition of Defendant, by

SHEILA DONOGHUE, taken by Plaintiff, pursuant

to Notice, at the offices of The Scott Firm,

55 Washington Street, Suite 705, Brooklyn, New

York 11201, before Charisse Romeo, a Shorthand

Reporter and Notary Public within and for the

State of New York.

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1 S. Donoghue
 2 A. I am an HR consultant/generalist.
 3 Q. And for how long have you been a
 4 HR consultant/generalist?
 5 A. Almost a year.
 6 Q. And prior to that, what was your
 7 job title?
 8 A. I was a senior employee relations
 9 specialist.
 10 Q. Can you briefly describe what
 11 your job responsibilities are now as an HR
 12 consultant and generalist?
 13 A. Basically, I am forging a
 14 relationship as a strategic partner with our
 15 business groups. A work-in-process. I work
 16 with assigned departments working with
 17 workforce planning, employment strategies,
 18 consulting on day-to-day employee relations
 19 matters.
 20 Q. In your new title, is there a
 21 name to the department under which you report?
 22 A. Human resources.
 23 Q. Human resources, okay.
 24 Your previous job title was a
 25 senior employment relations --

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 2 A. Employee.
 3 Q. Employee relations specialist,
 4 thank you.
 5 A. Yes.
 6 Q. What department did that title
 7 come under?
 8 A. Under employee relations.
 9 Q. So --
 10 A. Which is part of human resources,
 11 which was part of human resources.
 12 Q. Was there any particular reason
 13 why you changed from senior employee relations
 14 specialist to your new job title?
 15 A. The department, human resources
 16 department underwent a reorganization
 17 approximately about a year ago.
 18 Q. Did your change in title result
 19 in an increase in pay?
 20 A. Not for me.
 21 Q. Was there an increase in staff
 22 that you were responsible for in any way?
 23 A. No, not really.
 24 Q. If you were to describe the
 25 change in your overall job responsibilities,

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1 S. Donoghue
 2 how would you describe that from your last
 3 title to the current one you have now?
 4 A. The previous job did not involve
 5 the expectation that we would become strategic
 6 business partners with the various business
 7 groups that I am assigned to at the hospital.
 8 It was more or less dealing with employee
 9 relations issues, maybe clarifying policy
 10 issues. Working day-to-day matters,
 11 day-to-day business matters, as opposed now
 12 maybe engaging in more long-range planning.
 13 Q. Is it also safe to say that your
 14 responsibilities now involve more contact with
 15 parties outside of the hospital as opposed to
 16 intraoffice issues between management and
 17 staff?
 18 A. No, they may be a diminishment
 19 because of the role that I've assumed, but I
 20 am still working with all the groups within
 21 the hospital, a different group than I had
 22 worked with when I was employee relations. I
 23 have a different assignment.
 24 Q. Prior to your title as a senior
 25 employee relations specialist, what was your

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1 S. Donoghue
 2 job title at the hospital?
 3 A. I was manager of employee
 4 relations.
 5 Q. And how long were you the manager
 6 of employee relations?
 7 A. Maybe four years. I'm not sure.
 8 Q. Okay. This also was a part of
 9 human resources?
 10 A. Correct.
 11 Q. Prior to your manager of employee
 12 relations job title, what were you doing at
 13 the hospital; what was your title at the
 14 hospital?
 15 A. I was a senior employee relations
 16 specialist.
 17 Q. The title that --
 18 A. That I had my most recent title,
 19 correct.
 20 Q. How long were you in that job
 21 title, for what period of time?
 22 A. I don't recall.
 23 Q. Any other job titles with the
 24 hospital other than the current one you hold
 25 now, senior employee relations specialist and

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2 manager of employee relations?

3 A. I may have started out as an
4 employee relations specialist, I think I
5 did -- when I was first hired, I was an
6 employee relations specialist.

7 Q. It is safe to say for your entire
8 tenure at the hospital, you were assigned to
9 the human resources department of Memorial
10 Sloan-Kettering; is that correct?

11 A. That's correct. That's correct.

12 Q. Just briefly your educational
13 background, if you could just state that?

14 A. I have a master's degree and I
15 have training from Cornell, the School of
16 Labor Relations.

17 Q. In your present job title, do you
18 have any responsibilities with regards to the
19 hiring or termination of employment for
20 Memorial Sloan-Kettering?

21 A. I am involved in recruiting.

22 Q. And in what capacity?

23 A. Actually I've just begun
24 interviewing candidates for various positions.

25 Q. If you can, be more specific

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2 regarding the positions that you are
3 recruiting.

4 A. We have an area called disease
5 management so I've interviewed for those jobs.
6 Recently I was involved in interviewing for
7 our administrative assistant in the
8 department, in which I am now currently
9 working. I held that interview process.

10 Q. Any other recruiting
11 responsibilities?

12 A. No, I attend job fairs. I've
13 just begun the recruiting aspect of my job.

14 Q. With regard to termination of
15 employment in your current job title, do you
16 have any authority in that regard?

17 A. What I do is I may advise, but I
18 don't have the ultimate decision, that would
19 be the department manager that would make the
20 ultimate decision. But I would have a
21 discussion, I would be involved in discussing
22 the pros and cons and I would make a
23 recommendation, but it may not necessarily be
24 carried through.

25 Q. Under what circumstances, in your

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2 current job title, would you be in a position
3 to make a recommendation either for or against
4 the termination of employment of an employee
5 at Memorial Sloan-Kettering?

6 A. Well, if somebody has had a long
7 history of performance problems, a manager may
8 call and say, you know, so and so has been in
9 corrective action, they are on final warning
10 and we've had another incident and we think
11 maybe we need to consider employment
12 termination. So I would be engaged then in a
13 process with them to review the record, see
14 what the latest incident is, is there a
15 possibility that maybe we should give the
16 person another opportunity. So it would be
17 like, you know, just kind of problem-solving.

18 Q. So a manager would in that
19 circumstance initiate communication with you
20 and your office at human resources?

21 A. Yes, they would possibly call me
22 or come to the office, but it is always
23 initiated by the manager.

24 Q. You used the term "final
25 warning"?

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2 A. Correct.

3 Q. Could you explain in the context
4 of your employment and your responsibilities
5 at Memorial Sloan-Kettering what does a final
6 warning mean, what does it constitute?

7 A. We have what we refer to as a
8 corrective action process. First step is
9 counseling, then there is a second step that's
10 called a verbal warning, and then there are
11 two written warning stages. There is the
12 first written warning and then there is a
13 final written warning.

14 Q. And at the point in time that an
15 employee has received a final written warning,
16 is that the only time when they would
17 potentially face termination of employment?

18 A. Not necessarily. It would depend
19 on the incident. It could be somebody who has
20 never had any kind of corrective action, but
21 maybe it was a very serious misconduct issue
22 so possibly they could be terminated, their
23 employment could be terminated without going
24 through progressive discipline.

25 Q. And as far as making that

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2 is taken next?

3 A. Well, our structure has changed.

4 When the department was employee relations,
5 then it would be -- if the complaint came to
6 my attention, then I would begin looking into
7 the complaint immediately. Under the current
8 structure, if it went to an employee affairs,
9 they would begin looking into that and they
10 would then work with the consultant that was
11 involved, or responsible for that particular
12 business unit.

13 Q. When you say the structure has
14 changed, when, around what time did this
15 structure as far as action after reporting
16 change?

17 A. The structure of the department
18 changed in July, but I would say maybe as of
19 January -- and I would have to refer this to
20 Pam Dudley, she may have a better recollection
21 of this than I am because she is in that
22 department at the moment. I would say since
23 that time, I think we are still working out
24 who is responsible for what. But under all
25 situations, somebody would assume

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2 responsibilities if a complaint came forward.
3 It would never not get addressed by anybody.

4 Q. And when you say "July," you are
5 referring to July, 2007?

6 A. 2007.

7 Q. Okay, very good.

8 A. Yes.

9 Q. This new liaison you are
10 referring to between employee affairs and the
11 hospital consultant --

12 A. Correct.

13 Q. -- can you just explain a little
14 more detail how that relationship works now?

15 A. The way it works now, the belief
16 was with the restructuring, there should be a
17 neutral place for employees to go to, if they
18 chose not to go to their hospital consultant,
19 but the role of employee affairs was very
20 important. So that has remained as an intact
21 group. But there is the expectation that we
22 would work together on any issues that come up
23 from, you know, any of the business units.

24 Q. And so I'm clear, are you
25 currently a hospital consultant?

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2 A. Yes, I am on the hospital team.

3 Q. If you could just give me a quick
4 schematic as far as, if you could, and
5 again -- and I mean it so I'm not trying to --

6 A. No, I am not taking it that way.

7 Q. All right.

8 A. Basically there is a team of
9 three, three generalist teams because the
10 hospital -- I should start out, the hospital
11 is divided into three corporations although,
12 there is an SKI corporation and then there is
13 a Memorial Corporation and then there is what
14 we refer to as the MSKCC unit, that is the
15 business unit of the hospital.

16 Q. Okay.

17 A. So there are generalist teams for
18 each of these three entities?

19 Q. Okay.

20 A. The team I'm on services the
21 Memorial Hospital group.

22 Q. Is it safe to say now that
23 employee affairs is an over-arching entity
24 that has certain responsibility to mandate
25 regarding employee relationships with the

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2 hospital and then there are these subgroups
3 with the generalist teams with specific
4 responsibilities to these various
5 corporations, SKI, Memorial and MSKCC?

6 A. I would say my understanding is
7 employee affairs is responsible for all -- any
8 issues pertaining to any employee in either
9 one of those groups and corporations. And
10 then if a particular issue arises out of one
11 of those groups, then they would work with --
12 like my manager Esther Altman is considered
13 the senior consultant on my team, so she would
14 possibly be the one that would first be spoken
15 to. And then there would be an assignment,
16 depending which business group the complaint
17 came out of, and then it would go to the
18 generalist to work with employee affairs.

19 Q. During your most recent tenure as
20 a senior employee relations specialist?

21 A. We vacillate between specialist
22 and generalist. I mean consultant and
23 generalist, sorry.

24 Q. Senior employee relations?

25 A. You mean my current role, the one

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 2 I am in now or the previous one?
 3 Q. No, the previous role.
 4 A. Okay.
 5 Q. Did you have any responsibilities
 6 with regards to the hiring of employees for
 7 Memorial?
 8 A. No, I did not.
 9 Q. Did you have any responsibilities
 10 with regard to termination of employees in
 11 your most previous incarnation as a senior
 12 employee relations generalist?
 13 A. I was in an advisement capacity.
 14 I was not authorized to make a determination
 15 on my own.
 16 Q. When you say that, is that
 17 similar to the earlier example you gave when a
 18 manager may bring a situation to you in regard
 19 to an employee that is having some issues and
 20 you would give advice on what the appropriate
 21 steps would be?
 22 A. Correct.
 23 Q. Or have a discussion as to what
 24 should happen next?
 25 A. Exactly, it is the same.

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 2 Q. To your understanding, because
 3 you said ultimately the final decision would
 4 not rest with you, who has the final say so on
 5 whether or not an employee is terminated?
 6 A. It would be the hiring manager in
 7 conjunction with their manager. It would be
 8 on the department level, I'll simplify it. It
 9 would be on the department level.
 10 Q. Are you familiar with a Memorial
 11 employee named Edmund Bryan?
 12 A. Yes, I am.
 13 Q. How did you come to know Mr.
 14 Bryan?
 15 A. I first met Mr. Bryan a number of
 16 years ago when I worked in employee relations.
 17 Q. If you recall, what were the
 18 circumstances, the specific circumstances
 19 under which you met?
 20 A. My recollection is that he had
 21 some complaints about his workplace
 22 specifically, I believe it was his supervisor
 23 at the time. I recall looking into an issue
 24 regarding his pay advisory being opened before
 25 he received the pay advisory directly. Some

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 2 environmental issues, I believe, regarding
 3 somebody was playing a radio too loudly, he
 4 found it disturbing.
 5 Q. Okay.
 6 A. At another point he was seeking
 7 to move to another position within the
 8 department. I looked into issues regarding
 9 what, I guess, he would consider to be
 10 negative interactions with his co-workers.
 11 This is over a period of time. This was not
 12 my initial encounter with him.
 13 Q. All right. You referred in that
 14 last statement to negative interactions --
 15 A. Yes.
 16 Q. -- with co-workers.
 17 A. Correct.
 18 Q. Do you recall any of the details
 19 of any of those particular interactions?
 20 A. My recollection is they were
 21 always interpersonal in nature. Either people
 22 complaining that he wasn't communicating
 23 with -- he was not communicating with the rest
 24 of the team. He felt that maybe communication
 25 that they had with him, he felt was negative.

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 2 Q. And you said on some occasions
 3 you looked into these complaints, how would
 4 you look into; how did you look into a
 5 complaint for Mr. Bryan regarding negative
 6 interactions between himself and his
 7 co-workers?
 8 A. I recall meeting with the manager
 9 of the department, his co-workers and Edmund
 10 himself.
 11 Q. Is this a particular specific
 12 recollection that you have on one particular
 13 occasion?
 14 A. That's my recollection, I think
 15 on at least a couple of occasions.
 16 Q. Do you recall the names of the
 17 managers with whom you met on any of the
 18 occasions?
 19 A. John Meggs.
 20 Q. On the occasion, on occasion when
 21 you met with Mr. Meggs, do you recall what the
 22 nature of the complaint was that gave rise to
 23 your having to meet with Mr. Meggs?
 24 A. It may have been loud music being
 25 played in the workplace. People using

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 2 inappropriate language.
 3 Q. And could you be specific with
 4 regards to what was the nature of their
 5 language, the language complaint when he
 6 says --
 7 A. I know this is stereotype, you
 8 know, construction type. You are in an
 9 environment where a lot of people are working
 10 on a construction site and venting, you know,
 11 cursing. This is one of things that people
 12 may hear. I know it is a stereotype, but it
 13 is a common occurrence.
 14 Q. I don't want to put words in your
 15 mouth. Are you referring strictly to blue
 16 language, foul language?
 17 A. Probably at times, yes.
 18 Q. Any other types of offensive
 19 language that he complained to you about?
 20 A. Most recently I recall maybe my
 21 last situation with Edmund, there was an
 22 incident regarding an employee from another
 23 business unit that was in the department and
 24 my understanding is that somebody in Edmund's
 25 department was trying to cultivate a Jamaican

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 2 accent, and this individual was teaching him
 3 how to sound as though he, himself, was from
 4 Jamaica.
 5 Q. Okay.
 6 A. And Edmund took offense to that.
 7 Q. Did Mr. Bryan ever complain to
 8 you -- let me take a step back.
 9 A. Okay.
 10 Q. When Mr. Bryan would make these
 11 complaints, how would he make them?
 12 MS. KALE: Objection.
 13 You can answer if you can.
 14 A. The last time I remember he came
 15 to see me, I actually met with him a couple of
 16 times. I don't recall if he previously -- if
 17 he may have called and then asked for an
 18 appointment and then we set something up for
 19 me to meet with him. I believe he also may
 20 have given me written communication in the
 21 form of a letter.
 22 Q. So on occasions he would make
 23 complaints verbally, orally to you?
 24 A. Correct.
 25 Q. And then on other occasions he

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 2 may put something in writing?
 3 A. I believe.
 4 Q. And give it to you?
 5 A. I believe I recall seeing
 6 something in writing.
 7 Q. Is there any sort of company-wide
 8 requirement with regards to making a complaint
 9 with your department?
 10 A. Would you say a little more about
 11 that? I guess explain what you mean.
 12 Q. Is there a form that may have
 13 been filled out by an employee when they are
 14 coming to your department to make a complaint
 15 about some sort of office action that they
 16 find objectionable?
 17 A. There are two ways somebody might
 18 do that or maybe more, somebody might write a
 19 letter, somebody might call or somebody might
 20 ask to complete a grievance form and they
 21 would go through a formal grievance process.
 22 Q. When you say "a grievance form,"
 23 that is something that the employee would
 24 request from --
 25 A. They could request or it may be

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 2 advised that they complete a grievance form.
 3 Q. Under what circumstances would
 4 someone be advised to complete a grievance
 5 form?
 6 A. Well, it could be somebody who
 7 might feel that policy hasn't been put into
 8 place fairly.
 9 Q. Okay.
 10 A. And they've tried maybe working
 11 this out with their supervisor through, you,
 12 know, numerous discussions and it might be
 13 advised that they go through the grievance,
 14 which is a very formal process.
 15 Q. Okay.
 16 Do you recall if Mr. Bryan ever
 17 filled out a grievance form for any complaint?
 18 A. No, I don't.
 19 Q. Going back to our discussion
 20 about language, did Mr. Bryan ever make
 21 complaints to you about language in the
 22 workplace that he found objective because he
 23 felt it was homophobic?
 24 A. I know he raised the issue, but I
 25 don't know if it was related to language or

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 2 March of 2007 regarding his complaints about
 3 these particular comments, the one about men
 4 living at home and the one about Jamaicans on
 5 the top of a mountain?
 6 A. He initiated the complaint.
 7 Q. So your answer is yes with regard
 8 to you speaking to him?
 9 A. Yes, he met with me.
 10 Q. Did you take notes during your
 11 initial interaction, your initial conference
 12 with Mr. Bryan on this particular complaint?
 13 A. I believe I did.
 14 Q. What other action did you take
 15 related to your investigation of the complaint
 16 made by Mr. Bryan regarding the comment about
 17 men living at home and the comment about
 18 putting Jamaicans on the top of a mountain
 19 with a shovel?
 20 A. I recall that I tried to reach
 21 out to Edmund, but I was unable to do so to
 22 give him results of my investigation.
 23 Q. And what were the results of your
 24 investigation?
 25 A. I could not confirm that anything

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 2 that he had said took place.
 3 Q. As part of your investigation?
 4 A. And may I say something, please?
 5 Q. Oh, yes, please.
 6 A. Or maybe a clarification of what
 7 Edmund heard versus what someone may have
 8 intended or maybe people sharing their
 9 experience.
 10 Q. During this particular
 11 investigation, this March of 2007
 12 investigation, did you also have occasion to
 13 review an e-mail exchange between Rupert
 14 Gillette and John Meggs regarding a prior
 15 incident with the use of a Jamaican accent
 16 that Mr. Bryan had taken offense to?
 17 A. I can't say that I recall the
 18 e-mail exchange, no.
 19 Q. And as far as your final
 20 conclusion, you are saying you couldn't
 21 find -- and, you know, I don't want to put
 22 words in your mouth, can you just restate
 23 again what your finding was after your
 24 investigation, if you recall?
 25 A. I don't think I --- my

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 2 recollection is I couldn't confirm that
 3 anything -- I'm trying to think of the right
 4 word here. I don't believe I could confirm
 5 that anything offensive took place, but I do
 6 remember speaking again -- and I do this
 7 habitually when I have these investigations if
 8 there was even the possibility of something
 9 happening that couldn't be determined, but
 10 just to speak to the manager and the
 11 supervisor that in the event something like
 12 this could have happened or could have been
 13 interpreted as being offensive --
 14 Q. Yes.
 15 A. -- to get them to look at that
 16 and get them to remind people about workplace
 17 behavior, appropriate workplace behavior, I
 18 should say.
 19 Q. Did you also in relation to that
 20 last comment, take occasion to specifically
 21 inform a supervisor, whether that be Mr. Meggs
 22 or Mr. Gillette, to discontinue the use, the
 23 mimicking accents and the use of the word
 24 "nigga"?
 25 MS. KALE: Objection.

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 2 A. No, I remember speaking to them
 3 about the use of the word "nigger," that it
 4 was inappropriate, didn't matter if it was a
 5 slang word or not. Some generations, it is
 6 not a slang word, it is very offensive, you
 7 need to keep that in mind.
 8 And what was the other piece of
 9 that? I'm sorry.
 10 Q. Mimicking accents.
 11 A. Yes, that's about the gentleman
 12 who was supposedly trying to -- yes, it could
 13 be offensive to some people and if someone
 14 wanted to do that on their own time, that was
 15 fine but, again, not in the workplace.
 16 Q. During this particular
 17 investigation, the March 2007 investigation,
 18 did you have occasion to review any paperwork,
 19 documents of any sort, related to Mr. Bryan's
 20 earlier complaint with the human rights
 21 commission?
 22 A. I don't know that I would have
 23 seen it as being relevant. I don't recall
 24 reviewing it during that investigation. I did
 25 get the complaint as it had come to me.